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**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC
TECHNICIANS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2007-169

TIMOTHY DEANTWON HARRIS
2110 W 107th Street
Los Angeles, CA 90047
Vocational Nurse License No. VN-215615

ACCUSATION

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational
Nursing and Psychiatric Technicians, Department of Consumer Affairs (Bureau).

2. On or about June 24, 2005, the Bureau issued Vocational Nurse License
No. VN-215615 to Timothy DeAntwon Harris (Respondent). The Vocational Nurse License
will expire on April 5, 2009, unless renewed.

JURISDICTION

3. This Accusation is brought before the Director of Consumer Affairs
(Director) for the Bureau, under the authority of the following laws. All section references are to
the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 22 states:

"(a) 'Board' as used in any provisions of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and 'agency.'

"(b) Whenever the regulatory program of a board that is subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2 (commencing with Section 473), is taken over by the department, that program shall be designated as a 'bureau.'"

5. Section 101.1, subdivision (b), states:

"(1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.

"(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department."

6. Section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Bureau may renew an expired license at any time within four years after the expiration.

1 7. Section 150 states: "The department is under the control of a civil
2 executive officer who is known as the Director of Consumer Affairs."

3 8. Section 477 states:

4 As used in this division:

5 "(a) "Board" includes "bureau," "commission," "committee," "department,"
6 "division," "examining committee," "program," and "agency."

7 "(b) "License" includes certificate, registration or other means to engage in a
8 business or profession regulated by this code."

9 9. Section 490 provides, in pertinent part, that the Board may suspend or
10 revoke a license when it finds that the licensee has been convicted of a crime substantially related
11 to the qualifications, functions or duties of a licensed vocational nurse.

12 10. Section 2875 provides, in pertinent part, that the Board may discipline the
13 holder of a vocational nurse license for any reason provided in Article 3 (commencing with
14 section 2875) of the Vocational Nursing Practice Act.

15 11. Section 2878 states, in pertinent part:

16 "The Board may suspend or revoke a license issued under this chapter [the
17 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

19

20 (4) The use of excessive force upon or the mistreatment or abuse of any patient.

21 For the purposes of this paragraph, 'excessive force' means force clearly in excess of that which
22 would normally be applied in similar clinical circumstances.

23

24 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
25 abetting the violating of, or conspiring to violate any provision or term of this chapter.

26

27 "(f) Conviction of a crime substantially related to the qualifications, functions,
28 and duties of a licensed vocational nurse, in which event the record of the conviction shall be

1 conclusive evidence of the conviction. . . ."

2 **REGULATORY PROVISIONS**

3 12. California Code of Regulations, title 16, section 2518.6 states, in pertinent
4 part:

5 "(a) A licensed vocational nurse shall safeguard patients'/clients' health and safety
6 by actions that include but are not limited to the following:

7

8 (3) Performing services in accordance with Section 125.6 of the Business and
9 Professions Code.

10 (b) A licensed vocational nurse shall adhere to standards of the profession and
11 shall incorporate ethical and behavioral standards of professional practice which include but are
12 not limited to the following:

13 (1) Maintaining current knowledge and skills for safe and competent practice;

14

15 (c) A violation of this section constitutes unprofessional conduct for purposes of
16 initiating disciplinary action.

17 13. California Code of Regulations, title 16, section 2521 states, in pertinent
18 part:

19 "For the purposes of denial, suspension, or revocation of a license pursuant to
20 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or
21 act shall be considered to be substantially related to the qualifications, functions or duties of a
22 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a
23 licensed vocational nurse to perform the functions authorized by his license in a manner
24 consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be
25 limited to those involving the following:

26

27 "(c) Violating or attempting to violate, directly or indirectly, or assisting in or
28 abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2

1 of the Business and Professions Code. . . ."

2 **COST RECOVERY**

3 14. Section 125.3 provides, in pertinent part, that the Board may request the
4 administrative law judge to direct a licensee found to have committed a violation or violations
5 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
6 enforcement of the case.

7 **STATEMENT OF FACTS**

8 15. On or about April 9, 2006, Respondent was employed as a licensed
9 vocational nurse at a skilled nursing facility, St. Erne Healthcare Center, Inglewood, California
10 (St. Erne).

11 16. On or about April 9, 2006, Respondent abused a patient when he grabbed
12 the patient around the neck in a sleeper-hold, bent the patient's arm behind his back, and
13 slammed the patient's head against the ground. The patient sustained a cut above his eyebrow
14 that required stitches. The patient also had a seizure after his head hit the ground.

15 17. On or about July 12, 2006, the State of California, Health and Human
16 Services Agency, issued Citation No. 91-1083-0003205-S to St. Erne for failing to report
17 Respondent's April 9, 2006, incident of abuse violating Health and Safety Code section 1418.91.

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Excessive Force, Mistreatment or Abuse of Patient)

20 18. Respondent is subject to disciplinary action under Section 2878,
21 subdivision (a)(4), on the grounds of unprofessional conduct, in that on or about April 9, 2006,
22 while employed as a licensed vocational nurse at St. Erne's, Respondent used excessive force
23 upon, mistreated and/or abused a resident patient. Complainant refers to and by this reference
24 incorporates the allegations set forth in paragraphs 16, 17 and 18, inclusive, above, as though set
25 forth fully.

26 **SECOND CAUSE FOR DISCIPLINE**

27 (Failure to Safeguard Patient's Health and Safety)

28 19. Respondent is subject to disciplinary action under Section 2878,

1 subdivisions (a) and (d), in conjunction with California Code of Regulations, title 16, section
2 2518.6, subdivision (a)(3), on the grounds of unprofessional conduct, in that on or about April 9,
3 2006, Respondent through his actions, failed to safeguard a patient's/client's health and safety.
4 Complainant refers to and by this reference incorporates the allegations set forth in paragraphs 16
5 through 19, inclusive, above, as though set forth fully.

6 THIRD CAUSE FOR DISCIPLINE

7 (Failure to Adhere to Standards of Practice)

8 20. Respondent is subject to disciplinary action under Section 2878,
9 subdivisions (a) and (d), in conjunction with California Code of Regulations, title 16, section
10 2518.6, subdivision (b)(1), in that on or about April 9, 2006, Respondent, a licensed vocational
11 nurse, failed to adhere to standards of the profession, incorporate ethical and behavioral standards
12 of professional practice, and/or failed to maintain current knowledge and skills for safe and
13 competent practice. Complainant refers to and by this reference incorporates the allegations set
14 forth in paragraphs 16 through 20, inclusive, above, as though set forth fully.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Conviction of Substantially Related Crime)

17 21. Respondent is subject to disciplinary action under Sections 490 and 2878,
18 subdivision (f), as defined in California Code of Regulations, title 6, section 2521, subdivision
19 (c), in that on or about July 6, 2007, after pleading *nolo contendere*, Respondent was convicted
20 of one misdemeanor interlineated count 3 for violating Penal Code section 415, subdivision (a)
21 [causing loud noise] in the criminal proceeding entitled *The People of the State of California v.*
22 *Timothy Harris* (Super. Ct. Los Angeles, Inglewood Courthouse, 2007, No. 71G01233). The
23 court ordered Respondent to 12 months probation, perform 40 hours of community service, and
24 pay penalties, fines and restitution. The circumstances of the conviction arise from his April 9,
25 2006, abuse of a resident patient at St. Erme. Complainant refers to and by this reference
26 incorporates the allegations set forth in paragraphs 16 through 21, inclusive, above, as though set
27 forth fully.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 22. Respondent is subject to disciplinary action under section 2878,
4 subdivision (a), in that he committed acts of unprofessional conduct as alleged and set forth in
5 paragraphs 16 through 22, inclusive, above, as though set forth fully.

6 DISCIPLINE CONSIDERATIONS


7 23. To determine the degree of discipline, Complainant alleges that on or
8 about January 6, 1992, after pleading *nolo contendere*, Respondent was convicted of one
9 misdemeanor count for violating Penal Code section 12031, subdivision (a), [carry loaded
10 firearm] in the criminal proceeding entitled *The People of the State of California v Timothy*
11 *Deantwon Harris* (Municipal Court, Los Angeles County, Culver City, 1992, No. 92M00021).
12 The court ordered Respondent to five (5) days jail, 12 months probation, and the weapon
13 destroyed pursuant to Penal Code section 12028, subdivision(a). The circumstances of the
14 conviction are that on January 3, 1992, Marina Del Rey Sheriff's Dept. arrested Respondent.

15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Director issue a decision:

- 18 1. Revoking or suspending Vocational Nurse License No. VN-215615,
19 issued to Respondent.
- 20 2. Ordering Respondent to pay the Bureau the reasonable costs of the
21 investigation and enforcement of this case, pursuant to Business and Professions Code section
22 125.3; and,
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: November 12, 2008

25 
26 TERESA BELLO-JONES, J.D., M.S.N., R.N.
27 Executive Officer
28 Bureau of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs, State of California
Complainant